

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

IN RE:)
)
SINGLETON FOOD SERVICES, INC.) CHAPTER 11
) CASE NO. 18-22157-jrs
Debtor.)

EMERGENCY MOTION OF DEBTOR FOR AUTHORITY
TO PAY EMPLOYEES' SALARIES, WAGES AND BENEFITS
ARISING PRIOR TO PETITION DATE

COMES NOW Debtor Singleton Food Services, Inc. ("Debtor") and
files this Emergency Motion to Pay Employees' Salary, Wages and Benefits
Arising Prior to the Petition Date. In support of this Motion, Debtor shows
the following:

1.

On November 3, 2018 (the "Petition Date") Debtor filed a voluntary
petition for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C.
§§ 101 et seq., (as amended, modified, or supplemented the "Bankruptcy Code").
In accordance with Sections 1107(a) and 1108 of the Bankruptcy Code, Debtor
operates its business as a Debtor-in-Possession.

2.

Debtor is a Georgia corporation that owns and operates twelve

Subway franchises in North Georgia and North Carolina. Debtor's only income comes from its retail food operations.

3.

Debtor anticipates that United Community Bank ("UCB") will assert a blanket lien on Debtor's accounts and receivables. Debtor has filed an emergency motion for authorization to use cash collateral contemporaneously with this Motion.

4.

Debtor has approximately 110 full and part-time employees on payroll. The next payday normally would be Tuesday, November 13, 2018. The estimated payroll figure for the pre-petition workdays for which the employees have not been paid is \$31,037.35, plus payroll service fees of \$780.00. See Exhibit A.

5.

It is critical that the Debtor be permitted to compensate its employees for the wages they earned providing services for the company. Failure to do so would affect employee morale and cause great hardship for the Debtor. It may also cause the employees to suffer personal hardship, leading to attrition in the workforce. This will hamper Debtor's ability to maximize

value for its creditors.

6.

By this Motion, Debtors request that the Court enter an Order on an expedited basis, pursuant to §§ 105(a) and 507(a)(3) of the Bankruptcy Code, authorizing Debtor to pay the employees the aforementioned pre-petition wages and salaries, as well as the taxes, withholdings, fees and other expenses included in the gross payroll figure.

7.

This Court should authorize the Debtors under § 105(a) of the Bankruptcy Code to pay the Prepetition Obligations in full. Section 105(a) provides that “the court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.”

8.

Under the “necessity of payment” rule, first enunciated by the Supreme Court in *Miltenberger v. Logansport, Ry. Co.*, 106 U.S. 286 (1882), a bankruptcy court may use its section 105 equitable powers to permit a debtor in possession to pay prepetition claims when payment is necessary to effectuate a successful reorganization. *See, In re Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (necessity of payment doctrine “teaches no more than, if payment of a

claim which arose prior to reorganization is essential to the continued operation of the [business] during the reorganization, payment may be authorized even if it is made out of corpus”).

9.

The continued service and dedication of the Employees and Associates is critical to the Debtor. For instance, in *In re Ionosphere Clubs, Inc.*, 98 B.R. 174 (Bankr. S.D.N.Y. 1989), the court permitted Eastern Air Lines, Inc. (“EAL”) to pay its current employees’ prebankruptcy wages, salaries, medical benefits and business expense claims, relying on section 105(a) to effectuate a restructuring of EAL’s finances to provide jobs for its employees. *Id.* at 177 (citing H.R. Rep. No. 95-595 at 16 (1977)). Moreover, Section 507(a)(3) of the Bankruptcy Code, allows priority treatment, up to \$12,850, for holders of allowed claims attributable to wages, salaries, or commissions, inclusive of vacation, severance and sick leave pay. 11 U.S.C. § 507(a)(3). Upon information and belief, the payments contemplated herein are for priority claims and would not exceed the \$12,850 limit.

10.

Other courts also have permitted debtors in possession to pay prepetition wage, salary, expense and benefit claims if payment of such claims was necessary

to effectuate a successful reorganization.

WHEREFORE, Debtor respectfully requests that the Court enter an Order:

- (A) Enter an Order granting Debtor the authority to pay pre-petition salary and benefits; and
- (B) Granting such other relief the Court deems just and proper.

This 6th day of November 2018.

/S/

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PAYROLL EXPENSES

LOCATION	EMPLOYEE NAME	HOURS (REDACTED)	RATE OF PAY (PER HOUR) REDACTED	GROSS INCOME	FED TAX	STATE TAX	MEDICARE	SOCIAL SECURITY	OTHER DEDCUTIONS (INSURANCE)	NET PAY	PAYROLL BILLING
OFFICE	J. EDWARD SINGLETON JR	SALARY		\$ 6,500.00	\$ 1,330.21	\$ 377.38	\$ 94.25	\$ 403.00		\$ 4,295.16	\$ 60.00
	K BRADLEY			\$ 724.50	\$ 8.88	\$ 23.75	\$ 10.29	\$ 44.02	\$ 14.58	\$ 622.98	
	M CARVER			\$ 325.12	\$ 18.28	\$ 2.83	\$ 4.72	\$ 20.15		\$ 279.14	
	M GRAVITTE			\$ 713.00	\$ 25.63	\$ 8.87	\$ 10.16	\$ 43.43	\$ 210.41	\$ 414.50	
	T VINCENT			\$ 718.87	\$ 41.49	\$ 29.91	\$ 10.27	\$ 43.94	\$ 10.18	\$ 583.08	
ELLIJAY	D BOWMAN			\$ 335.32	\$ 19.30	\$ 7.73	\$ 4.87	\$ 20.79		\$ 282.63	\$ 60.00
	M BUTTS			\$ 125.06			\$ 1.82	\$ 7.75		\$ 115.49	
	J COLLINS			\$ 36.25			\$ 0.53	\$ 2.25		\$ 33.47	
	P DAVIS			\$ 463.13		\$ 0.28	\$ 6.53	\$ 27.94	\$ 12.48	\$ 415.90	
	A FREEMAN			\$ 29.00			\$ 1.42	\$ 1.80		\$ 26.78	
	T MITCHELL			\$ 99.68			\$ 1.45	\$ 6.18		\$ 92.05	
	K O'DELL			\$ 320.81		\$ 2.70	\$ 4.65	\$ 19.89		\$ 293.57	
BLUE RIDGE	G BURLISON			\$ 362.50	\$ 22.02	\$ 4.21	\$ 5.26	\$ 22.47		\$ 308.54	\$ 60.00
	M FAIR			\$ 177.63			\$ 2.58	\$ 11.02		\$ 164.03	
	E GRIMES			\$ 342.37	\$ 20.01	\$ 3.41	\$ 4.96	\$ 21.22		\$ 292.77	
	J INGRAM			\$ 216.00		\$ 0.16	\$ 3.13	\$ 13.39		\$ 199.32	
	J RADFORD			\$ 126.88			\$ 1.84	\$ 7.87		\$ 117.17	
	A SATTERFIELD			\$ 36.25			\$ 0.52	\$ 2.25		\$ 33.48	
JASPER	C BUCHANAN			\$ 362.85	\$ 6.09	\$ 4.23	\$ 5.27	\$ 22.50		\$ 324.76	\$ 60.00
	BJ CHILDERS			\$ 97.75			\$ 1.42	\$ 6.06	\$ 26.00	\$ 64.27	
	C CHILDERS			\$ 21.75			\$ 0.31	\$ 1.35		\$ 20.09	
	R GAINES			\$ 175.32			\$ 2.54	\$ 10.87		\$ 161.91	
	M MULLINS			\$ 100.75		\$ 0.12	\$ 1.46	\$ 6.25		\$ 92.92	
	M PAYNE			\$ 508.88		\$ 1.43	\$ 7.38	\$ 31.55		\$ 468.52	
	R SHAW			\$ 148.12	\$ 0.58	\$ 0.90	\$ 2.15	\$ 9.18		\$ 135.31	
	J SHIPMAN			\$ 264.00		\$ 0.15	\$ 3.83	\$ 16.37		\$ 242.65	
BLAIRSVILLE	Z AMOS			\$ 47.12			\$ 0.68	\$ 2.92		\$ 43.52	\$ 60.00
	J BEAVERS			\$ 255.57		\$ 0.98	\$ 3.71	\$ 15.85		\$ 235.03	
	B GREEN			\$ 38.25			\$ 0.56	\$ 2.38		\$ 35.31	
	D HAYNES			\$ 143.19			\$ 2.08	\$ 8.88		\$ 132.14	
	A HOGSED			\$ 48.94			\$ 0.71	\$ 3.04		\$ 45.19	
	T HOLLAWAY			\$ 38.06			\$ 0.55	\$ 2.36		\$ 35.15	
	J LANCE			\$ 92.44			\$ 1.34	\$ 5.73		\$ 85.37	
	K LEIS			\$ 202.50		\$ 0.10	\$ 2.94	\$ 12.55		\$ 186.91	
	K MARESCALCO			\$ 29.25			\$ 0.42	\$ 1.82		\$ 27.01	
	S MINCEY			\$ 7.25			\$ 0.10	\$ 0.45		\$ 6.70	
	D NEAGLE			\$ 286.37		\$ 1.67	\$ 4.16	\$ 17.75		\$ 262.79	
	J SCHRICHTE			\$ 234.38		\$ 5.76	\$ 3.40	\$ 14.53		\$ 210.69	
HIAWASSEE	R FORD			\$ 76.12			\$ 1.10	\$ 4.72		\$ 70.30	\$ 60.00
	B GREEN			\$ 91.38			\$ 1.33	\$ 5.66		\$ 84.39	
	T HOLLAWAY			\$ 135.94			\$ 1.97	\$ 8.43		\$ 125.54	
	A IDE			\$ 121.44			\$ 1.76	\$ 7.53		\$ 112.15	
	K MARESCALCO			\$ 321.75	\$ 1.98	\$ 2.73	\$ 4.67	\$ 19.95		\$ 292.42	
	N NEACE			\$ 39.88			\$ 0.58	\$ 2.47		\$ 36.83	
	S SILVERS			\$ 45.31			\$ 0.66	\$ 2.81		\$ 41.84	
HAYESVILLE	A BALES			\$ 83.38			\$ 1.21	\$ 5.17		\$ 77.00	\$ 60.00
	H BENEFIELD			\$ 38.06			\$ 0.55	\$ 2.36		\$ 35.15	
	A HENDERSON			\$ 58.00			\$ 0.84	\$ 3.59		\$ 53.57	
	M LEMASTER			\$ 119.63			\$ 1.73	\$ 7.41		\$ 110.49	
	D LOVELL			\$ 437.00	\$ 29.47	\$ 6.00	\$ 6.34	\$ 27.09		\$ 368.10	

	K MARESCALCO			\$ 67.50			\$ 0.98	\$ 4.19		\$ 62.33	
	H MCULLOUGH			\$ 43.12			\$ 0.63	\$ 2.78		\$ 39.81	
	R MCCULLOUGH			\$ 76.12			\$ 1.11	\$ 4.72		\$ 70.29	
	G REWIS			\$ 232.14	\$ 12.23		\$ 3.84	\$ 16.41		\$ 232.14	
	T SILVERS			\$ 18.12			\$ 0.26	\$ 1.12		\$ 16.74	
HELEN	T BROWN			\$ 94.25			\$ 1.37	\$ 5.84		\$ 87.04	\$ 60.00
	C CARTER			\$ 273.69			\$ 3.97	\$ 16.97		\$ 252.75	
	Y COLTER			\$ 29.00			\$ 0.42	\$ 1.80	\$ 164.89	\$ 9.37	
	C POWELL			\$ 282.63		\$ 1.56	\$ 4.10	\$ 17.53		\$ 259.44	
	A WIGLEY			\$ 300.00			\$ 4.35	\$ 18.60		\$ 277.05	
	R YOHE			\$ 224.00	\$ 8.17	\$ 2.91	\$ 3.24	\$ 13.89		\$ 195.79	
BLAIRSVILLE WALMART	H AMOS			\$ 210.25		\$ 0.18	\$ 3.05	\$ 13.03		\$ 193.99	\$ 60.00
	Z AMOS			\$ 146.81	\$ 0.45		\$ 2.13	\$ 9.10		\$ 135.13	
	J BEAVERS			\$ 72.50			\$ 1.05	\$ 4.50		\$ 66.95	
	W HARRELL			\$ 447.70	\$ 30.54	\$ 8.15	\$ 6.49	\$ 27.75		\$ 374.77	
	T HUGHES			\$ 482.50	\$ 17.46	\$ 15.97	\$ 6.90	\$ 29.54	\$ 21.86	\$ 390.77	
JASPER WALMART	C BUCHANAN			\$ 19.91			\$ 0.29	\$ 1.23		\$ 18.39	\$ 60.00
	BJ CHILDERS			\$ 214.63	\$ 7.23	\$ 2.63	\$ 3.12	\$ 13.31		\$ 188.34	
	D COKER			\$ 128.69			\$ 1.87	\$ 7.98		\$ 118.84	
	R DOVER			\$ 58.12			\$ 0.84	\$ 3.61		\$ 53.67	
	T GIPSON			\$ 105.00	\$ 4.00	\$ 2.00	\$ 1.52	\$ 6.51		\$ 65.47	
	A HARKINS			\$ 38.06			\$ 0.55	\$ 2.36		\$ 35.15	
	J HIGHTOWER			\$ 38.06			\$ 0.55	\$ 2.36		\$ 35.15	
	C KINSER			\$ 708.68			\$ 10.19	\$ 43.56		\$ 607.69	
	L ROBINSON			\$ 255.00		\$ 0.97	\$ 3.70	\$ 15.81		\$ 234.52	
	J SHIPMAN			\$ 62.00			\$ 0.90	\$ 3.85		\$ 57.25	
	A SMITH			\$ 45.00			\$ 0.66	\$ 2.79		\$ 41.55	
	A ST JOHN			\$ 21.75			\$ 0.31	\$ 1.35		\$ 20.09	
WALESKA	L AVERY			\$ 130.50			\$ 1.89	\$ 8.09		\$ 120.52	\$ 60.00
	S BEAM			\$ 114.19			\$ 1.66	\$ 7.08		\$ 105.45	
	C BOWMAN			\$ 43.50			\$ 0.63	\$ 2.70		\$ 40.17	
	J DANIELS			\$ 73.13			\$ 1.06	\$ 4.53		\$ 67.54	
	A DOWDEN			\$ 146.81	\$ 0.45		\$ 2.13	\$ 9.11		\$ 135.12	
	C FARMER			\$ 106.94			\$ 1.55	\$ 6.63		\$ 98.76	
	E HUISMA			\$ 65.25			\$ 0.95	\$ 4.05		\$ 60.25	
	C HUX			\$ 88.81			\$ 1.29	\$ 5.50		\$ 82.02	
	C KINSER			\$ 11.50			\$ 0.17	\$ 0.71		\$ 10.62	
	Q MCNEIL			\$ 11.25			\$ 0.17	\$ 0.70		\$ 10.38	
	M MONCRIEF			\$ 176.31	\$ 3.40		\$ 2.56	\$ 10.93		\$ 159.42	
	L REMLEY			\$ 322.50		\$ 10.89	\$ 4.67	\$ 20.00		\$ 286.94	
	A ST JOHN			\$ 76.88			\$ 1.12	\$ 4.77		\$ 70.99	
	L STEWART			\$ 281.26	\$ 13.90	\$ 1.51	\$ 4.08	\$ 17.44		\$ 244.33	
	M TAVES			\$ 159.50	\$ 1.72		\$ 2.31	\$ 9.89		\$ 145.58	
BALL GROUND	T DEGENHARD			\$ 47.12			\$ 0.68	\$ 2.92		\$ 43.52	\$ 60.00
	B GARRETT			\$ 110.56			\$ 1.61	\$ 6.86		\$ 102.09	
	T LEWIS			\$ 70.69			\$ 1.02	\$ 4.38		\$ 65.29	
	J LOWE			\$ 236.25		\$ 0.53	\$ 3.43	\$ 14.65		\$ 217.64	
	K RAY			\$ 204.81			\$ 2.97	\$ 12.69		\$ 189.15	
	A ST JOHN			\$ 345.00		\$ 12.24	\$ 5.01	\$ 21.39		\$ 306.36	
	T THOMAS			\$ 290.63	\$ 14.83	\$ 5.49	\$ 4.21	\$ 18.02		\$ 248.08	
	KE WIGINTON			\$ 312.38		\$ 0.05	\$ 4.53	\$ 19.37		\$ 288.43	
FAIRMOUNT	A ALLEN			\$ 85.19			\$ 1.23	\$ 5.28		\$ 78.68	\$ 60.00
	J AMON			\$ 88.81			\$ 1.29	\$ 5.59		\$ 82.01	
	J BROWN			\$ 66.00			\$ 0.95	\$ 4.09		\$ 60.96	
	M COCHRAN			\$ 448.25		\$ 9.90	\$ 6.50	\$ 27.79	\$ 14.08	\$ 389.98	

	C ESSLINGER			\$ 258.76			\$ 3.75	\$ 16.04		\$ 238.97	
	B GRIZZLE			\$ 131.26			\$ 1.90	\$ 8.13		\$ 121.23	
	H O'REE			\$ 157.50	\$ 1.52		\$ 2.29	\$ 9.76		\$ 143.93	
	A SHIPMAN			\$ 294.94	\$ 15.26	\$ 5.71	\$ 4.28	\$ 18.29	\$ 31.04	\$ 220.36	
	N YOUNG			\$ 320.81	\$ 1.89	\$ 2.70	\$ 4.65	\$ 19.89		\$ 291.68	
TOTAL		0		\$ 26,295.52	\$ 1,656.99	\$ 568.69	\$ 381.93	\$ 1,628.70	\$ 505.52	\$ 21,661.00	\$ 780.00